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LAW REFORM COMMISSION OF BRITISH COLUMBIA

MINISTRY OF ATTORNEY GENERAL

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LRC 92

The Law Reform Commission of British Columbia was established by the *Law Reform Commission Act* in 1969 and began functioning in 1970.

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To the Honourable Brian R.D. Smith, Q.C.
Attorney General of the Province of British Columbia

The Law Reform Commission of British Columbia has the honour to present its Annual Report for 1986/87. It outlines the progress made by the Commission during the period from April 1, 1986 to March 31, 1987.

I INTRODUCTION

The Law Reform Commission of British Columbia was created by the *Law Reform Commission Act*, S.B.C. 1969, c. 14 and it commenced operation in 1970. The function of the Commission is set out in section 2 of the Act:

> The Commission is to take and keep under review all the law in the Province including statute law, common law and judicial decisions, with a view to its systematic development and reform, including the codification, elimination of anomalies, repeal of obsolete and unnecessary enactments, reduction in the number of separate enactments and generally the simplification and modernization of the law. . . .

The Commission's approach to this mandate has been described in its previous Annual Reports.

During the period under review, 5 final Reports were submitted to you on the following topics:

Spousal Agreements
Shared Liability
The Action Per Quod Servitium Amisit
The Court Order Interest Act
Obsolete Remedies Against Estate Property: Estate Administration Act, Part 9

During the past year the Commission also circulated three Working Papers which have not yet resulted in final Reports. These Working Papers are on the following topics:

The Buyer's Lien: A New Consumer Remedy
Fraudulent Conveyances and Preferences
Set-Off

II PERSONALIA

As presently constituted the Commission consists of four members: Arthur L. Close, Chairman; and Miss Mary Newbury, Professor Lyman R. Robinson, Q.C., and Dean Peter Burns, Q.C., Commissioners. This reflects a change in the composition of the Commission which occurred in May 1986 with the appointment of Dean Burns. All Commissioners, other than the Chairman, serve on a part-time basis.

A full list of past Commission members is set out in an Appendix.

III THE PROGRAM

A. DEVELOPING THE PROGRAM

1. Introduction

When the Law Reform Commission of British Columbia became operational in 1970 its first act was to develop a program of projects and studies which it intended to pursue. Developing its program involved a highly visible process of consultation with the Ministry of the Attorney General, the legal profession and the public.

Today, owing to the incremental nature of changes in the Commission's program, the process of developing it is much less visible. From time to time, therefore, we are asked about the way in which topics are selected for examination and report by the Law Reform Commission. The purpose of this portion of our Annual Report is to attempt, briefly, to describe the process.

2. Sources of Projects

(a) The Attorney General

Under section 2 of the *Law Reform Commission Act* the Attorney General may refer specific subjects to the Commission for examination and report. Various Attorneys General have done so on a number of occasions over the years, and about 30 percent of our Reports have their origins in such a reference. Two of the projects that were active during the past year arose in this way (*Court Order Interest Act* and the Action *Per Quod Servitium Amisit*).

(b) Other Sources

(i) Suggestions from Outside the Commission

The Commission frequently receives suggestions for law reform measures or which identify areas of the law regarded as unsatisfactory. These suggestions emanate from the legal profession (both from individual practitioners and through the official organs of the bar such as the sections of the Canadian Bar Association), judges and the general public.

(ii) Projects Generated Internally

The Commission's legal staff monitors a large number of reports and legal periodicals. These are a fruitful source of potential projects. An article written by an academic lawyer in a learned journal may identify unsatisfactory aspects of the law which call for reform. Judges will occasionally find themselves applying a doubtful rule and the reasons for judgment may set out a cry (sometimes ringing, sometimes muted) for reform. We also maintain reciprocal exchange agreements with other law reform agencies throughout the world. Occasionally work being done by a law reform agency in, say, Australia, may alert us to the fact that our own law is deficient in the area under consideration.

(iii) Action on Suggestions

Once an area of the law has been identified as suitable for possible action by the Law Reform Commission one of two things might happen. First, if the suggestion deals with a short, neat point which is unlikely to be controversial, we may proceed on it immediately with a Minor Report to the Attorney General.

Most often, however, the Commission's first step is to open a file on the suggestion as one of a large number of "subjects of interest." Once such a file has been opened, we start gathering material on the topic under consideration. We may communicate with individuals knowledgeable on the particular topic to get their views on the desirability of reform in the area. We may canvas other jurisdictions to see if the particular subject has been perceived as a problem there and, if so, what the response has been.

Approximately once each year we review our program and, in particular, the subjects of interest files to identify those topics which might be suitable for addition to our program for active work.

3. Criteria for Selection

Given the numbers of the various sources of topics for potential Commission projects, it is necessary to pick and choose among them. What considerations underlie a decision to select one topic, in preference to another, for action? There is no single criterion, but a number of the factors relevant to this decision are outlined below.

(a) Credibility

The Commission and its professional staff is composed wholly of lawyers and the Commission has, generally, tended to confine its work to areas where lawyers are recognized as having particular credibility. Our specialty is the formulation of legal policy. If in a particular topic, the issues of legal policy are less significant than policy issues on which other disciplines have greater expertise, we would probably tend to defer. This is an issue on which we have commented at length in previous Annual Reports.

(b) Is There a Legal Solution?

Many issues brought to the Commission's attention do not turn on defects in the substantive law. Rather, the defects are in matters of administration and the institutions through which the law is applied. While there is no hard and fast position on this, the Commission tends to be cautious in approaching topics which appear to call for altered institutional arrangements rather than "self-executing" changes in black letter law.

(c) Balance in the Program

The Commission attempts to maintain a program which is balanced in a number of ways. There is a balance between large projects and small projects. There is a balance between projects which are intensely theoretical and projects which are intensely practical. There is also a balance in respect of subject matter. It would be unfortunate if the Commission were perceived as devoting its resources wholly to lengthy projects on one narrow area of law however valuable or important work in that area might be.

(d) Empirical Research

Empirical research is expensive and time-consuming and our ability to undertake it is very limited. If it is in the nature of a particular project that credible recommendations can only be made on the basis of empirical research that is beyond our means, we would usually not undertake it.

(e) Likelihood of Implementation

The issue of how far the program of a law reform agency should be shaped by implementation considerations is a difficult one on which views may, quite properly, vary widely. The view that has generally prevailed in this Commission over the years is that we should not be deterred from undertaking a study in which an important point of principle is involved by reason only that the government of the day may not share the Commission's sense of urgency with respect to reform in the area involved, or may be hostile to the recommendations likely to emerge. At the same time, we have been sensitive to the fact that the Commission is a publicly funded agency and this carries with it the responsibility to manage its resources in the way most likely to achieve results.

4. Summary

As law reform agencies go, the British Columbia Commission has adopted a highly pragmatic approach to the way in which it selects its topics. Once a topic has been selected, however, the Commission has been less restrained and has been prepared to come up with highly innovative solutions and proposals. It should also be noted that the criteria that are applied to the selection of Commission topics are not part of an articulated policy. They really emerge from an examination of the Commission's work over the years.

B. CARRYING OUT THE PROGRAM

1. Research and Writing

The research to carry out the program calls for time-consuming work by qualified people. This can be achieved by having the research done by personnel who are employed full-time or by persons with special expertise who are retained on a part-time or occasional basis. Although in its early years, the Commission relied heavily on outside consultants, our experience has led to a preference for the former approach. Consequently, most of the research and writing is now conducted by full-time members of the Commission staff.

2. The Consultation Process

The Commission makes a general practice of inviting comment and criticism of its research and analysis before submitting a formal Report on any particular subject. This process of consultation greatly assists the Commission in developing recommendations for the reform of the law that are both relevant and sound.

The chief means by which the Commission carries out this process is through the circulation of Working Papers to those who are knowledgeable, or who have a special interest in the subject under study. A Working Paper sets out the tentative views of the Commission and outlines the background against which these views were formed. Comment on all aspects of the Working Paper is invited. Occasionally, copies of a draft Report may be given limited circulation for comment, if the topic under consideration makes the wide circulation of a Working Paper inappropriate.

Whatever consultative mechanism is adopted, the Commission thoroughly re-examines its tentative conclusions in the light of the comment and criticism received. Final recommendations are developed accordingly.

C. NEW PROJECTS

Late in 1986 the Commission embarked on a major review of its program. The major thrust of this review was the addition of a number of new projects to the Commission's program. Some of these projects are set out as part of our description of the current program in the following section. The addition of certain other projects is somewhat more tentative in the sense that the process of determining the appropriate scope and content of each is not yet complete. Projects in this category include:

company law
extrinsic aids to statutory interpretation
foreclosure practice
statutorily favoured undertakings and occupational groups
franchising

In the months to come we expect that more precise terms of reference will be developed for some of the subject areas described above.

D. CURRENT PROGRAM

The description below is limited to those projects upon which Reports have been made in the past year or which are, or will soon become, active. Details of other projects may be found in earlier Annual Reports. Included as Appendix A is a table setting out all Reports which the Commission has made to date, and references to legislation in which the recommendations have been implemented in whole or in part. In Appendix B, another table sets out those matters which are now under consideration.

1. Debtor-Creditor Relationship Topics

(a) Court Order Interest Act

Early in 1983, the former Attorney General requested that the Commission "undertake a review of the *Court Order Interest Act* and, in January 1987 the Commission submitted its final Report on this topic. The Report (LRC 90) is probably the most comprehensive examination of judgment interest legislation, and the principles which underlie it, ever undertaken in Canada and possibly in the Commonwealth. The Report sets out over 40 recommendations for reform covering such diverse aspects of the Act as the setting of interest rates, accommodating interim payments, and the temporal apportionment of awards between pre-trial and post-trial losses for the purposes of calculating interest.

The most innovative recommendation is that a new method be adopted for ascertaining judgment interest. Rather than requiring the litigants to do complicated percentage-based computations, it is recommended that this burden be shifted to a computer, with court registry officials issuing, on a monthly basis, tables of figures which embody the results of these calculations. This proposal has the potential to greatly simplify counsel's task while, at the same time, accommodating refinements such as the compounding of interest and frequent changes in interest rates which would otherwise be impracticable.

(b) Shared Liability

The Commission's final Report on this topic was submitted to the Attorney General in October 1986 (LRC 88). The Report addresses the difficult procedural and substantive issues which may arise when two or more persons share liability to another. How is liability apportioned? What rights of contribution or indemnity should exist among the parties?

Many problems flow from the distinction between "joint liability" and "joint and several liability." In the Report it is concluded that this distinction has little contemporary utility and its abolition is recommended.

The *Negligence Act* governs apportionment of fault, contributory negligence and rights of contribution when a person suffers damage at the hands of others. This Act, however, has acquired a heavy patina of caselaw which

suggests that a more modern statement of the law is called for. Moreover, the Act can lead to injustice in particular circumstances. The Report recommends the adoption, in modified form, of the *Uniform Contributory Fault Act* recently promulgated by the Uniform Law Conference of Canada.

A recommendation of particular interest is one concerning the apportionment of the shortfall which can arise where a wrongdoer is insolvent and the amount of his liability cannot be recovered from him. The present rule in British Columbia, for example, is that if the plaintiff has been contributorily negligent, in any degree, the whole loss will fall on him: *Leischner* v. *West Kootenay Power and Light Co.*, (1986) 70 B.C.L.R. 145 (B.C.C.A.). The Report recommends a fairer formula for distributing the shortfall.

(c) Execution Against Shares

The Study Paper on the *Office of the Sheriff* published by the Commission in 1983 identified a number of substantive and procedural problems which arise out of the body of law which currently governs the seizure and sale of shares by an execution creditor.

The Commission is in the final stages of developing a Working Paper which addresses these problems. The Commission's tentative proposals for reform will be embodied in draft legislation amending the *Court Order Enforcement Act*.

(d) Fraudulent Conveyances and Preferences

This project comprises a study and critical evaluation of the operation of the *Fraudulent Conveyance Act* and the *Fraudulent Preference Act*. This was the subject matter of a Working Paper (No. 53) distributed in October 1986 which set out a number of tentative proposals for reform.

For the reasons described in the Working Paper it was tentatively proposed that the *Fraudulent Preference Act* be repealed. It was also proposed that the *Fraudulent Conveyance Act* be retained, but in a form which provides a modern and accessible restatement of the law on this subject.

We hope to submit a final Report late in 1987.

(e) Set-Off

When "A" attempts to enforce payment of a debt owing to him by "B" it is regarded as fundamentally fair that "B" should be entitled to have taken into account any money owing from "A" to "B." This is usually referred to as a right of "set-off." In general, the body of law which governs set-off is satisfactory.

There are, however, instances in which the right of set-off is limited and, arguably, operates unfairly. Our research suggests that these instances reflect an imperfect understanding by modern courts of legal developments which took place in the nineteenth century. This research is embodied in a Working Paper on Set-Off (W.P. No. 54) which was distributed in March 1987. The Working Paper concludes with a proposal that a fair and modern law of set-off be restated in legislation.

(f) The Buyer's Lien: A New Consumer Remedy

The project concerns the legal position of a person who buys goods, and pays the purchase price to the seller but, before he has actually taken delivery of the goods, the seller becomes insolvent. When this happens there are two possible results. Either the buyer gets his goods, or he is merely an unsecured

creditor of the seller and his chances for recovery of any money are remote. Which result occurs depends on the highly technical question of whether title to specific goods has passed to the buyer. This is determined with reference to the *Sale of Goods Act*.

A typical fact pattern might involve a person who buys a refrigerator from an appliance dealer. The buyer pays the purchase price and arrangements are made that a refrigerator is to be delivered from the dealer's stock of such refrigerators a day or two hence. But no specific refrigerator is ever identified as the subject matter of the transaction. Before delivery takes place, the dealer becomes insolvent. Under the present law, the buyer is unlikely to get either his refrigerator or his money back, even though the dealer may have several such refrigerators in stock and the purchase price sits in the dealer's till. This is widely regarded as an unfair result.

In August 1986 a Working Paper (W.P. No. 52) was finalized and circulated. The basic thrust of the proposals made in the Working Paper is to give the buyer a lien over any goods in the seller's inventory which meet the description of the goods he was seeking to purchase and over any deposit account into which the proceeds of retail sales are usually paid. Responses to the Working Paper have been received and the Commission is in the process of developing its final recommendations.

(g) Enforcement of Foreign Judgments

In Canada, most of the provinces have enacted a version of the *Uniform Reciprocal Enforcement of Judgments Act*. This is not reforming legislation. All it provides is a summary procedure to achieve the same result as the common law alternative of simply suing on an extra-provincial judgment. There are still a variety of defences which may be raised to defeat the enforcement of such a judgment. The availability of these defences may be sensible with respect to judgments from outside Canada but, it may be argued, judgments emanating from other Canadian provinces ought to stand on a somewhat different footing. It may be that the American concept of giving "full faith and credit" to judgments of other states is worth examining.

Preliminary work has commenced on this study although we are not, as yet, able to predict the pace at which it will proceed.

2. Trust and Estate Topics

(a) The Effect of Testamentary Instruments

In previous Reports, the Commission has examined problems existing in the law of succession. One focus of this work has been to ensure that technical rules do not prevent the courts from giving effect to a testator's will. Even where the testator's original intent is beyond dispute, events may occur which render it impossible to give effect to his intent. A beneficiary may predecease the testator. Property disposed of by will may have become altered in form.

In this project the Commission will examine a number of issues arising out of such occurrences. In particular, the legal rules concerning lapse, ademption, conversion, election, abatement and disclaimer will be examined. Good progress was made on this study in the past year and we expect a Working Paper to be circulated in 1987.

(b) Obsolete Remedies Against Estate Property: Estate Administration Act, Part 9

The *Estate Administration Act*, in sections 122 to 132, sets out what purport to be a number of rules of law in relation to the administration of estates. These provisions are mainly drawn from an English statute of 1830 and retain the language and flavour of that time. They refer to a number of legal concepts that have little contemporary relevance.

Our research indicates that these provisions were aimed at correcting a problem which ceased to exist over 60 years ago and their continued retention is unnecessary and unjustified. In a short Report (LRC 91) submitted in March 1987 we recommended that these and related provisions be repealed.

(c) Notice Requirements in Estate Matters

This study will examine the various notice requirements which the law imposes with respect to obtaining letters probate and letters of administration and with respect to the administration of estates.

(d) Trustee Investments

In the absence of a contrary stipulation in the instrument from which he derives his power, the investments which may be made by a trustee are limited to those set out in section 15 of the *Trustee Act*. There are two features to be noted about section 15. First, it embodies a "list approach" and enumerates acceptable investments by name or description. Second, the kinds of investments permitted are of a relatively restricted kind.

This project will examine the issue of trustee investments and, in particular, whether our *Trustee Act* should abandon the "list approach" in favour of the more modern "prudent man" approach. The latter approach has found favour with a number of law reform bodies which have considered this issue.

This project was added to our program in the past year and active work has not yet commenced.

(e) The Rule in Howe v. Lord Dartmouth

The Rule in *Howe* v. *Lord Dartmouth* is a particular instance of the trustee's duty to act impartially between beneficiaries. It requires a trustee to convert residuary personal estate which is of a wasting or future or reversionary nature, or which consists of unauthorized securities, into property of a permanent and interest bearing character.

This project will examine the scope and effect of the rule. Active work has not yet commenced.

(f) Land (Settled Estate) Act

The *Land (Settled Estate) Act* is a mid-Victorian horror. It is obsolete, awkward and archaic. It is based on nineteenth century English legislation aimed at a legal regime where large amounts of land were held in strict settlement. In the result, much of what the Act deals with simply has no application in British Columbia. Moreover, even in England in 1870 it was decided that the Act upon which ours is based was deficient and much more effective legislation was passed. A review of our *Land (Settled Estate) Act* is long overdue and the aim of this project is to carry out such a review.

3. Contract Law Topics

(a) Deeds and Seals

In British Columbia today most business arrangements are intended to take effect as simple contracts. Many such arrangements may, however, also be the subject matter of a deed. Simply affixing a seal to a document at the time it is executed may be sufficient to transform a simple contract into a deed. The effect of making a deed is that a whole body of obscure law in relation to deeds suddenly becomes applicable to the transaction. Different rules of interpretation may apply to the transaction, different parties may be bound by it, a necessity for "delivery" arises, and there are different rules concerning its variation or discharge.

In most cases where the parties execute a deed it is likely that they have done so with no real understanding of the technical, legal implications of affixing a seal. Nonetheless, many documents do take the form of deeds, particularly those executed on behalf of companies which are then impressed with the company seal. The difficulty is that a company seal is generally regarded as a mark of authentication, in the nature of the company's "signature." The seal is affixed to what otherwise would be a simple contract without any person involved in the transaction realizing the full import of what has been done.

The Commission engaged Professor Robert Howell of the Faculty of Law, University of Victoria to prepare a research paper on this topic. That paper has been received and the Commission is now considering the future course of this project.

(b) Contractual Mistakes

A tangled and troubled area of contract law is that relating to mistake. This may include mistake as to the terms, subject matter or the identity of the parties involved. A mistake may be common, mutual, or unilateral.

In New Zealand, legislation has been enacted aimed at clarifying the rights of the parties in these circumstances. In this project we propose to examine the New Zealand legislation in a Canadian context to determine if similar reform is desirable in British Columbia.

4. Real Property Law Topics

(a) Joint Project on Land Title Law

The Alberta Institute of Law Research and Reform has been the catalyst for a recently revitalized joint project on land title law. Participating are representatives of law reform agencies and land registry officials from the Western Provinces and the Territories. We were pleased to accept an invitation extended earlier this year to join the project. We are participating in co-operation with the Director of Land Titles for the Province.

The first stage of the joint project involves the preparation of a draft Report by Professor Mapp of the Institute. This will form the focal point for discussion and debate among the participating jurisdictions. What emerges from that process will dictate the course of further work.

(b) Particular Land Title Issues

There were two land title issues which the Commission had tentatively added to its program before being invited to participate in the broader study described above. We cannot, at this stage, predict whether they will be dealt

with in the context of the joint project or whether it will be appropriate to proceed on them as separate topics. The two issues concerned are the availability and use of the *lis pendens* and the question of access to the assurance fund created under the *Land Title Act*.

(c) Floating Charges on Land

The floating charge on personal property is a relatively familiar type of business arrangement. It is a security device which gives a lender a security interest in a fluctuating mass of property, such as a borrower's inventory or equipment, which may change its identity over time. The essence of such an arrangement is that the borrower may sell or encumber this property in the ordinary course of his business, free and clear of the lender's interest, until such time as the charge "crystallizes." When a floating charge crystallizes (usually through some active step taken by the lender as a result of the borrower's default) the charge ceases to float. It descends and then becomes fixed on particular assets of the debtor.

The law has less experience with floating charges on land. Seldom is this kind of arrangement deliberately chosen by the parties in preference to other forms of security. This is largely because a "fixed" charge on land is regarded as more secure. A floating charge on land may arise incidentally under a security agreement primarily aimed at personal property, but which is drafted broadly enough to charge "all the property" of the borrower. The floating charge on land has received limited recognition in our case law (*see Daon Development Corp.* v. *National Trust Co. Ltd.*, (1982) 39 B.C.L.R. 341).

There is a substantial measure of uncertainty as to the relationship between a floating charge on land and our Torrens system of land registration. Should the system attempt to accommodate the floating charge and, if so, how might this be done?

The Commission has constituted a special Advisory Committee to assist in identifying the relevant issues and in providing appropriate advice in this area. The Committee started its work late in 1986 and continues to meet regularly. We expect that the Committee will be reporting to the Commission some time later in 1987.

(d) Co-Ownership of Land

There are two ways in which land may be co-owned by two or more persons: the joint tenancy and the tenancy in common. Our work on this project is principally concerned with four issues which arise in respect of these forms of co-ownership.

The first is to explore the possibility that the concept of joint tenancy might be modified to accommodate co-owners who have unequal interests (e.g. 60% and 40%) while retaining the right of survivorship that is characteristic of the joint tenancy.

The second issue is to explore the possibility of restricting secret transactions which may sever rights of survivorship. The present law allows what is, functionally, a revocable secret severance from which a party may withdraw when it is to that party's advantage to do so.

The third issue is to consider the enactment of a new *Partition of Property Act*. The present Act is over 100 years old and its age is reflected in its antiquated language and concepts. Restatement and simplification are necessary.

Finally, we will be examining the possibility of consolidating all provincial legislation relating to the substantive law of co-ownership into a single enactment.

Work is well advanced on this project and we expect to circulate a Working Paper in the summer of 1987.

(e) Commercial Tenancies

This project will examine selected topics in the law of landlord and tenant as it applies to nonresidential tenancies. One focus of our work will be a critical examination of the *Commercial Tenancy Act*. Much of this Act is based on "received" English statute law which embodies obsolete concepts or employs obscure language which renders inaccessible important rules of law.

Many provisions of the Act concern procedural matters. These have escaped the modernization that other enactments concerned with civil procedure, such as the Rules of Court, have undergone in recent years.

There are also a number of important issues in the law relating to commercial tenancies that should be clarified and restated in legislation.

We hope to start work on this study in the summer of 1987.

5. Spousal Agreements

Much of the litigation spawned by the *Family Relations Act* has arisen where spouses have entered into an agreement concerning family property but then, for one reason or another, one of the parties seeks to vary that agreement. Under the *Family Relations Act* the courts have wide powers to vary an agreed distribution of family property but the exercise of these powers has given rise to much confusion and uncertainty.

Difficulties arise from the sections of the Act which confer that jurisdiction. In fact, there are two distinct sections which confer independent but overlapping powers on the courts. The scope of those sections and the kinds of agreements to which they apply is uncertain. The relationship between the two sections is inadequately articulated.

A more basic concern, however, is that the powers conferred on the courts to vary these agreements are too broad. While this is not an area where one can be dogmatic about sanctity of contract, the present legislation pays too little regard to this value. A basic policy of the *Family Relations Act* is to encourage spouses to reach their own agreements concerning the division of family property. This policy is frustrated if the courts have wide powers to overturn such agreements.

In August 1986 the Commission submitted its final Report on Spousal Agreements (LRC 87). The Report concludes that the present jurisdiction of the courts to alter consensual distributions of family property is unnecessarily wide and that agreements between spouses concerning the distribution of property on a marriage break-up should be interfered with only where the agreement has been unfairly obtained. The Report also addresses the ability of the courts to vary maintenance obligations which have been agreed to.

In the Report the Commission makes recommendations to enhance the ability of spouses to regulate their rights and obligations by agreement.

6. The Action Per Quod Servitium Amisit

The action *per quod servitium amisit* is of some antiquity. It permits a master to recover damages for losses arising from an injury to his servant.

The current utility of this action has been doubted and its availability has been significantly restricted in England so that it arises only for injury to a

domestic servant. In British Columbia, the action appears to exist unchanged from its feudal origins.

Early in 1986 the Attorney General requested that the Commission consider whether the action should be abolished, or retained in some modified form. We did so, and in a short Report submitted in November 1986 (LRC 89), we recommended that the action be abolished.

7. Professional Review and Privilege

One feature that distinguishes many professions from other occupations is the extent to which the conduct of a member may be subject to scrutiny and review by other members. This scrutiny may take place through the governing body of the profession or through some more specific institutional arrangement.

In some cases a professional review is stimulated by a specific complaint as to the member's conduct and the proceeding may result in disciplinary measures being taken against the member. In other cases the thrust of the process is to improve competence and standards of conduct, although it may have been stimulated by a specific incident. The latter process is sometimes referred to as "peer review."

The same facts that may create a need for disciplinary proceedings or peer review may also spawn litigation. If litigation does ensue, how far should materials prepared for use in a professional review, or arising out of it, be available as evidence?

The answer seems to depend on the profession involved, and the nature and purpose of the review. The general response of the courts tends to the view that no privilege attaches to such materials. The legislature, on the other hand, seems to favour privilege—at least so far as peer review in the health sciences is concerned (*Evidence Act*, s. 57, as amended S.B.C. 1985, c. 65, s. 5).

A study on this topic was added to our program in 1986.

8. Vicarious Liability under *the Motor Vehicle Act*

The owner of a motor vehicle may be both civilly and (quasi) criminally liable for wrongs and offences committed by persons to whom the owner has entrusted possession and control of the vehicle. This liability arises under sections 76 and 79 of the *Motor Vehicle Act*. A project on the operation of these, and related, provisions was added to the Commission's program in 1986.

The concern which prompted this project was that the concept of "owner" was broader than necessary to serve the policy which apparently underlies these provisions. A closer examination revealed other issues respecting the role of vicarious liability in this context.

Work has commenced on this study although we cannot predict with confidence when a Report or Working Paper is likely to emerge.

9. Subjects of Interest

Preliminary research or the gathering of material regularly proceeds on a number of matters which are not yet part of the Commission's program or under active consideration for addition to it. In most cases the preliminary work is to determine if a particular topic is appropriate for formal inclusion in the program as a Commission project. Many of these matters which are under preliminary consideration arise out of particular suggestions made, and prob-

lems drawn to the Commission's attention, by the legal profession and members of the public. This is discussed more fully in Part IV of this Annual Report.

IV ACTION ON COMMISSION RECOMMENDATIONS

In our last two Annual Reports we expressed our pleasure in the interest taken in our work by the Attorney General, as expressed in the implementation of recommendations contained in past Commission Reports. This interest continued during the past year. The 1986 session of the legislature saw two initiatives which carried forward Commission work. The first was the enactment of new arbitration legislation. The *Commercial Arbitration Act*, S.B.C. 1986, c. 3 completely implements the recommendations made by this Commission in its 1982 Report on Arbitration (LRC 55).

The other initiative was the introduction of the *Law Reform Amendment Act, 1986* (Bill 34). The Bill was introduced and given first reading on June 5, 1986. It contained provisions aimed at implementing the recommendations made in the following Reports:

The Authority of a Guardian (LRC 78, 1985)
Performance Under Protest (LRC 81, 1985)
A Short Form General Power of Attorney (LRC 79, 1985)

The Bill did not proceed beyond first reading and it lapsed when the legislature was dissolved to make way for the provincial election in the autumn of 1986. We hope to see these measures re-introduced at a future session.

V THE AVAILABILITY OF COMMISSION PUBLICATIONS

All final Reports on major topics issued by the Commission are published in a typeset format, with the intention that they be available to the public. Our Annual Reports are distributed by the Commission and are available on request and free of charge so long as stocks last.

From time to time the Commission also submits minor Reports, in the form of a letter to the Attorney General. These minor Reports are usually reproduced in full as appendices to the Annual Report which covers the period in which the minor Report was made.

The Provincial Queen's Printer is responsible for the distribution of all Reports made by the Commission on particular topics. A nominal charge is made for copies of those Reports. The following ordering information appeared in the Government Services Division Information Bulletin for February 16, 1987:

> Queen's Printer Publications is now able to receive payment by VISA or MASTERCARD for telephone, mail or in-person orders. We need your card number, expiry date and the name on your card as well as the mailing address for your order. You may place orders in person at the Bookstore at 506 Government Street, Victoria, B.C. or by telephoning 387-1901. Mail orders should be addressed to Queen's Printer Publications, Parliament Buildings, Victoria, B.C. V8V 4R6

A number of our early Reports are now out of print and are not available for purchase. Those Reports are indicated with an asterisk in Appendix A.

The Queen's Printer maintains a "notification list" and upon publication of a Commission Report, all persons on the list are so advised. Anyone who wishes to be added to that list should contact the Queen's Printer.

Working Papers are produced in a typescript format by an offset process and the Commission is responsible for their distribution. Working Papers are usually produced in limited quantities and our supplies of them are invariably exhausted by, or shortly after, their initial distribution. Usually we are unable to respond to requests either for copies of past Working Papers or to be placed on a mailing list to receive copies of all Working Papers.

VI ACKNOWLEDGEMENTS

1. Commission Staff

As we have pointed out in previous Annual Reports, our policy of doing the greater part of our research work internally, rather than relying on outside consultants, places a heavy burden of responsibility on the shoulders of our permanent staff. They invariably respond to the challenge with energy, enthusiasm and careful scholarship. We wish to express our sincerest thanks to all those individuals who, in the past year, contributed to our work in this way.

Our particular thanks go to Thomas G. Anderson, Counsel to the Commission, for the loyalty and industry he has devoted to the affairs of the Commission. As our senior staff member, he bears a heavy responsibility for the overall direction of the Commission's program as well as carriage of specific projects.

Joining the Commission's legal research staff in October 1986 were J. Bruce McKinnon and Deborah M. Cumberford. We are pleased to have them with us.

Two individuals also served the Commission on a short-term basis. Over the summer months two students of the University of British Columbia, Faculty of Law, worked with us. Kathleen Geiger and Harbans Dhillon both undertook basic research on a number of topics and provided the Commission's full-time research staff with valuable assistance.

Our support staff also make a notable contribution to the work of the Commission. They bring intelligence and efficiency to their duties and share a concern that our work should be of the highest quality in every respect. Our support staff presently consists of Sharon St. Michael, Secretary to the Commission and Linda Grant, Clerk-Stenographer. We thank them for their efforts on our behalf.

2. Judges' Law Reform Committee

The Judges' Law Reform Committee is important to our operation. This Committee provides a continuing point of contact with the judiciary. The current members of the Committee are The Honourable Mr. Justice Macfarlane of the Court of Appeal (Chairman), The Honourable Mr. Justice Spencer, The Honourable Mr. Justice Macdonald and The Honourable Mr. Justice Lysyk of the Supreme Court, The Honourable Judge Huddart and The Honourable Judge Cowan of the Vancouver County Court, and His Honour Judge Collings of the Provincial Court. During the past year The Honourable Mr. Justice Taylor of the Supreme Court was also a member of the Committee.

The members of the Committee assist us through responding to our Working Papers and other consultative documents and by calling to our attention defects in the law that they are well-situated to identify. They bring a unique perspective to bear on our work. The responses and advice which the

Committee provides are invariably cogent and helpful. The work of the Judges' Committee plays a major role in the law reform process and we are immensely grateful to the individual members of the bench who give so generously of their time and energy to this end.

3. The Law Foundation

Previous Annual Reports have described the generous response of the Law Foundation of British Columbia to the Commission's requests for funding to help sustain its operation. In the past year, the Foundation again provided much needed assistance.

The support of law reform is listed as one of the Foundation's objects in the statute under which it is constituted. In enabling the Law Reform Commission to carry on with its functions, the Law Foundation has truly fulfilled that object and rendered an important service to the people of the Province. Our particular thanks go to Marlene Scott, Q.C., Chairman of the Foundation and Michael Jacobsen, its Executive Director.

4. Special Advisory Committee

Earlier in this Report we referred to the establishment of a Special Advisory Committee with respect to Floating Charges on Land. The members of that Committee are:

Professor Terry J. Wuester, *Chairman*	Hon. Mr. Justice B. Macdonald
Trevor Bell	Mary V. Newbury
B.W.F. Fodchuk	Glenn W. Raven
Mitchell Gropper	Robert W. Stuart
J.P. Malcolm McAvity	Dave F. Tysoe

The Commission is fortunate that this group of knowledgeable and uniquely qualified individuals have agreed to serve on the Committee. We would like to express our gratitude to each member of the Committee for the time and effort which is being devoted to this study. Our particular thanks go to the Committee Chairman, Professor Wuester for the very special contribution he is making to the Committee's work.

5. Continuing Legal Education Society

Our earlier Annual Reports have referred to the closer relationship which has grown up between the Continuing Legal Education Society of British Columbia (C.L.E.) and the Law Reform Commission. A particular aspect of this relationship has been the continuing participation of Thomas G. Anderson, Counsel to the Law Reform Commission, in the work of C.L.E. In particular, he served on the editorial board for the development of a practice manual on family agreements and currently serves on the editorial board which is overseeing the production of a further practice manual on family law matters. He was also a member of the faculty for the C.L.E. course on Drafting Family Law Agreements, which took place in November, 1986.

6. Ministry and Government Personnel

There are a number of individuals and agencies within Government who have in the past year, contributed to the work of the Commission.

The Law Reform Commission has always had a special relationship with the office of Legislative Counsel. Its personnel are invariably responsive and helpful when we request assistance in the preparation of proposed legislation.

We particularly wish to thank Allan Roger, Chief Legislative Counsel, and Herb Thornton, Cliff Watt and Claire Reilly of his office.

The Queen's Printer is responsible for printing our Reports. Its personnel bring a high level of skill, dedication and professionalism to the work they do for us and we are pleased to take this opportunity to thank them and acknowledge their important role.

We also wish to acknowledge the valuable assistance provided by John W. Cook of the Superannuation Commission, who provided advice on actuarial issues in connection with our work on the *Court Order Interest Act*.

Finally, we wish to thank the Attorney General and all those within his Ministry who, during the period under review, in their dealings with the Commission on a day-to-day basis have contributed to our work and made life easier. In particular our thanks go to The Honourable E.N. Hughes, Q.C., the Deputy Attorney General; Associate Deputies, Robert Adamson and Frank Rhodes; Ken Horodyski, Acting Director, Information Services; Chris Brambell, Facilities Management Unit; Barry Morton, Data Services Division; and Gordon Hogg and Leslie Holding, both Senior Financial Officers in the Ministry. All have, in one way or another, assisted us greatly.

ARTHUR L. CLOSE
MARY V. NEWBURY
LYMAN R. ROBINSON
PETER T. BURNS

April 16, 1987

Appendix A

REPORTS AND RECOMMENDATIONS MADE BY THE LAW REFORM COMMISSION OF BRITISH COLUMBIA

No.	Title	Date	Recommendations Implemented in Whole or in Part by
1	Limitations—Abolition of Prescription*	Dec. 1970	*Land Registry (Amendment) Act, 1971*, S.B.C. 1971, c. 30, s. 8 (see now *Land Title Act*, R.S.B.C. 1979, c. 219, s. 24).
2	Annual Report, 1970*	Dec. 1970	Not applicable.
3	Frustrated Contracts Legislation*	Feb. 1971	*Frustrated Contracts Act*, S.B.C. 1974, c. 37 (see now *Frustrated Contract Act*, R.S.B.C. 1979, c. 144); *Landlord and Tenant Act*, S.B.C. 1974, c. 45, s. 61(e) (see now *Residential Tenancy Act*, R.S.B.C. 1979, c. 365 s. 8(3)); *Commercial Tenancies Act*, R.S.B.C. 1960, c. 207, s. 34 (see now *Commercial Tenancy Act*, R.S.B.C. 1979, c. 54, s. 33).
4	Debt Collection and Collection Agents*	Mar. 1971	*Debt Collection Act*, S.B.C. 1973 c. 26 (see now *Debt Collection Act*, R.S.B.C. 1979, c. 88).
5	Expropriation*	Dec. 1971	———
6	Annual Report, 1971*	Dec. 1971	Not applicable.
7	Mechanics' Lien Act*	June 1972	*Builders Lien Amendment Act, 1984*, S.B.C. 1984, c. 16, s. 3 [in part]; *Builders Lien Amendment Act (No. 2), 1984*, S.B.C. 1984, c. 17, s. 1 [in part].
8	Deficiency Claims and Repossessions*	June 1972	*Conditional Sales Act*, S.B.C. 1973, c. 19 (see now *Sale of Goods on Condition Act*, R.S.B.C. 1979, c. 373); *Bills of Sale Act*, S.B.C. 1973, c. 7 (see now *Chattel Mortgage Act*, R.S.B.C. 1979, c. 48).
9	Legal Position of the Crown*	Dec. 1972	*Crown Proceedings Act*, S.B.C. 1974, c. 24 (see now *Crown Proceeding Act*, R.S.B.C. 1979, c. 86); *Interpretation Act*, S.B.C. 1974, c. 42, s. 13 (see now *Interpretation Act*, R.S.B.C. 1979, c. 206, s. 14).
10	Annual Report, 1972	Dec. 1972	Not applicable.
11	Interim Report on Evidence*	Feb. 1973	*Attorney-General Statutes Amendment Act, 1975*, S.B.C. 1975, c. 4, s. 6 (see now *Evidence Act*, R.S.B.C. 1979, c. 116, ss. 37, 38).
12	Pre-Judgment Interest*	May 1973	*Prejudgment Interest Act*, S.B.C. 1974, c. 65 (see now *Court Order Interest Act*, R.S.B.C. 1979, c. 76).

* Report is out of print

No.	Title	Date	Recommendations Implemented in Whole or in Part by
13	Landlord and Tenant—Residential Tenancies*	Dec. 1973	*Landlord and Tenant Act*, S.B.C. 1974, c. 45 (see now *Residential Tenancy Act*, S.B.C. 1984, c. 10).
14	Annual Report, 1973	Jan. 1974	Not applicable.
15	Limitations—General*	Mar. 1974	*Limitations Act*, S.B.C. 1975, c. 37 (see now *Limitations Act*, R.S.B.C. 1979, c. 236); *Law Reform Amendment Act, 1985*, S.B.C. 1985, c. 10, s. 6 [in part].
16	Costs of Accused on Acquittal*	June 1974	———
17	Procedure Before Statutory Bodies*	Nov. 1974	———
18	A Procedure for Judicial Review of the Actions of Statutory Bodies*	Dec. 1974	*Judicial Review Procedure Act*, S.B.C. 1976, c. 25 (see now *Judicial Review Procedure Act*, R.S.B.C. 1979, c. 209).
19	Annual Report, 1974	Jan. 1975	Not applicable.
20	Costs of Successful Unassisted Lay Litigants*	Apr. 1975	———
21	The Termination of Agencies*	Apr. 1975	———
22	Powers of Attorney and Mental Incapacity*	May 1975	*Attorney-General Statutes Amendment Act*, 1979, S.B.C. 1979, c. 2, s. 52 (see now *Power of Attorney Act*, R.S.B.C. 1979, c. 334, s. 7).
23	Personal Property Security*	Oct. 1975	———
24	Security Interests in Real Property: Remedies on Default*	Dec. 1975	*Miscellaneous Statutes (Court Rules) Amendment Act*, S.B.C. 1976, c. 33, s. 94(a) [in part] (see now *Law and Equity Act*, R.S.B.C. 1979, c. 224, s. 16); Supreme Court Rules, Rule 50(11), 3(2) [in part]; *Land Titles Act*, S.B.C. 1978, c. 25 [in part] (see now *Land Title Act*, R.S.B.C. 1979, c. 219, ss. 224–225); *Attorney General Statutes Amendment Act*, S.B.C. 1980, c. 1, s. 15 (see now *Law and Equity Act*, R.S.B.C. 1979, c. 224, s. 21.1) [in part]; *Property Law Act*, R.S.B.C. 1979, c. 340, s. 28 [in part]; *Law Reform Amendment Act, 1985*, S.B.C. 1985, c. 10, s. 5 (see now *Law and Equity Act*, R.S.B.C. 1979, c. 224, s. 16.1) [in part].
25	Annual Report, 1975	Jan. 1976	Not applicable.
26	Minors' Contracts*	Feb. 1976	*Law Reform Amendment Act, 1985*, S.B.C. 1985, c. 10, ss. 1, 2, 10 (see now *Infants Act*, R.S.B.C. 1979, c. 196, Part 2.1 (ss. 16.1–16.11)).

* Report is out of print.

No	Title	Date	Recommendations Implemented in Whole or in Part by
27	Extra-Judicial Use of Sworn Statements*	Apr. 1976	*See*, e.g., *Mineral Act, 1977*, S.B.C. 1977, c. 54, s. 20(2).
28	Rule in *Bain* v. *Fothergill**	June 1976	*Conveyancing and Law of Property Act*, S.B.C. 1978, c. 16, s. 33 (see now *Property Law Act*, R.S.B.C. 1979, c. 340, s. 33).
29	Annual Report, 1976	Dec. 1976	Not applicable.
30	The Rule in *Hollington* v. *Hewthorn**	Jan. 1977	*Evidence Amendment Act, 1977*, S.B.C. 1977, c. 70 (see now *Evidence Act*, R.S.B.C. 1979, c. 116, ss. 15(3), 80, 81).
31	Waiver of Conditions Precedent in Contracts*	Apr. 1977	*Attorney-General Statutes Amendment Act, 1978*, S.B.C. 1978, c. 11, s. 8 (see now *Law and Equity Act*, R.S.B.C. 1979, c. 224, s. 49).
32	Proof of Marriage in Civil Proceedings*	Apr. 1977	*Attorney-General Statutes Amendment Act, 1979*, S.B.C. 1979, c. 2, s. 18 (see now *Evidence Act*, R.S.B.C. 1979, c. 116, s. 58).
33	The *Statute of Frauds**	June 1977	*Law Reform Amendment Act, 1985*, S.B.C. 1985, c. 10, ss. 7, 8 (see now *Law and Equity Act*, R.S.B.C. 1979, c. 224, s. 54)
34	Tort Liability of Public Bodies*	June 1977	——
35	*Offences Against the Person Act, 1828*, Section 28*	Aug. 1977	*Attorney-General Statutes Amendment Act, 1978*, S.B.C. 1978, c. 11, s. 8 (see now *Law and Equity Act*, R.S.B.C. 1979, c. 224, s. 3).
36	Annual Report, 1977	Jan. 1978	Not applicable.
37	*Absconding Debtors Act* and *Bail Act*: Two Obsolete Acts*	Mar. 1978	*Attorney-General Statutes Amendment Act, 1978*, S.B.C. 1978, c. 11 s. 8, ss. 1, 2.
38	*The Replevin Act**	May 1978	Rules of Court, Rule 46 as amended Nov. 26, 1981 by B.C. Reg. 467/81. *Attorney General Statutes Amendment Act, 1982*, S.B.C. 1982, c. 46, ss. 3–6, 25, 37–41.
39	The *Attachment of Debts Act**	Oct. 1978	——
40	Execution Against Land*	Oct. 1978	——
41	Annual Report, 1978	Jan. 1979	Not applicable.
42	Creditor's Relief Legislation: A New Approach	Jan. 1979	——
43	Guarantees of Consumer Debts*	June 1979	*Consumer Protection Amendment Act, 1980*, S.B.C. 1980, c. 6, s. 3. [in part].

* Report is out of print.

No.	Title	Date	Recommendations Implemented in Whole or in Part by
44	Parol Evidence Rule	Dec. 1979	———
45	Annual Report 1979 (Limitation Periods in Actions Against Estates)	Jan. 1980	*Attorney General Statutes Amendment Act, 1980* S.B.C. 1980, c. 1, ss. 7, 17 (see now *Estate Administration Act*, R.S.B.C. 1979, c. 114, s. 66(4)(b); *Negligence Act*, R.S.B.C. 1979, c. 298, s. 7(3)).
46	Civil Litigation in the Public Interest	June 1980	———
47	Calculation of Interest on Foreclosure	Sept. 1980	*Attorney General Statutes Amendment Act, 1981*, S.B.C. 1981, c. 10, s. 28 (see now *Law and Equity Act*, R.S.B.C. 1979, c. 224, s. 18.1.).
48	The Recovery of Unauthorized Disbursements of Public Funds	Sept. 1980	*Financial Administration Act*, S.B.C. 1981, c. 15, s. 67.
49	Annual Report 1980 (Discount Rates)*	Jan. 1981	*Attorney General Statutes Amendment Act, 1981*, S.B.C. 1981, c. 10, s. 30 (see now *Law and Equity Act*, R.S.B.C. 1979, c. 224, s. 51).
50	Cable Television and Defamation	March 1981	*Law Reform Amendment Act, 1985*, S.B.C. 1985, c. 10, s. 9 (see now *Libel and Slander Act*, R.S.B.C. 1979, c. 234, s. 1 ["broadcasting"].
51	Benefits Conferred Under a Mistake of Law	Sept. 1981	———
52	The Making and Revocation of Wills	Sept. 1981	———
53	Distress for Rent	Nov. 1981	———
54	Annual Report 1981	Jan. 1982	Not applicable.
55	Arbitration	May 1982	*Commercial Arbitration Act*, S.B.C. 1986, c. 3. *Foreign Arbitral Awards Act*, S.B.C. 1985, c. 74.
56	Presumptions of Survivorship	Nov. 1982	———
57	The Crown as Creditor: Priorities and Privileges	Nov. 1982	———
58	Interpretation of Wills	Nov. 1982	———
59	Interest and Jurisdictional Limits in the County and Provincial Courts [Printed as an Appendix to LRC 60]	July 1982	*Miscellaneous Statutes Amendment Act (No. 1), 1984*, S.B.C. 1984, c. 25, s. 63 (see now *Small Claims Act*, R.S.B.C. 1979, c. 387, s. 2(3)); *Miscellaneous Statutes Amendment Act (No. 2), 1984*, S.B.C. 1984, c. 26, s. 2 (see now *County Court Act*, R.S.B.C. 1979, c. 72, s. 29(2)).
60	Annual Report 1982	Jan. 1983	Not applicable.

* Report is out of print.

No.	Title	Date	Recommendations Implemented in Whole or in Part by
61	Standing of a Common Law Spouse to Apply Under the *Family Compensation Act* [Printed as an Appendix to LRC 73]	Jan. 1983	*Family Law Reform Amendments Act, 1985*, S.B.C. 1985, c. 72, s. 3 (see now *Family Compensation Act*, R.S.B.C. 1979, c. 120, s. 1).
62	Interspousal Immunity in Tort	March 1983	*Charter of Rights Amendments Act, 1985*, S.B.C. 1985, c. 68, ss. 50-53, 79, 83, 98 (see now *Law and Equity Act*, R.S.B.C. 1979, c. 224, c.55.
63	Peremptory Challenges in Civil Jury Trials	June 1983	*Law Reform Amendment Act, 1985*, S.B.C. 1985, c. 10, ss. 3, 4 (see now *Jury Act*, R.S.B.C. 1979, c. 210, ss. 18, 18.1).
64	Breach of Promise of Marriage	Aug. 1983	*Family Law Reform Amendments Act, 1985*, S.B.C. 1985, c.72, ss. 1, 36 (see now *Family Relations Act*, R.S.B.C. 1979, c. 121, s. 75).
65	Foreign Money Liabilities	Sept. 1983	———
66	Competing Rights to Mingled Property: Tracing and the Rule in Clayton's Case	Sept. 1983	———
67	Bulk Sales Legislation	Oct. 1983	*Law Reform Amendment Act, 1985*, S.B.C. 1985, c. 10, ss. 11–13.
68	Intentional Interference with Domestic Relations	Nov. 1983	*Family Law Reform Amendments Act, 1985*, S.B.C. 1985, c. 72, ss. 35, 37, 40 (see now *Family Relations Act*, R.S.B.C. 1979, c. 121, s. 75). [in part].
69	Illegal Transactions	Nov. 1983	———
70	Statutory Succession Rights	Dec. 1983	———
71	Minor (Interim) Report on the *Land (Wife Protection) Act* [Printed as an Appendix to LRC 73]	Jan. 1984	*Charter of Rights Amendments Act, 1985*, S.B.C. 1985, c. 68, ss. 61-78 (see now *Land (Spouse Protection) Act*, R.S.B.C. 1979, c. 223).
72	Minor Report on The Jurisdiction of Local Judges: Stays of Execution and Instalment Orders [Printed as an Appendix to LRC 73]	Feb. 1984	Rules of Court, Rule 42(25) as amended by B.C. Reg. 18/85, s. 15 (effective April 1, 1985).
73	Annual Report 1983/84	April 1984	Not applicable.
74	Covenants in Restraint of Trade	April 1984	———
75	Review of Civil Jury Awards	Sept. 1984	———

No.	Title	Date	Recommendations Implemented in Whole or in Part by
76	Compensation for Non-Pecuniary Loss	Sept. 1984	_____
77	Settlement Offers	Sept. 1984	_____
78	The Authority of a Guardian	Jan. 1985	_____
79	A Short Form General Power of Attorney [Printed as an Appendix to LRC 80]	March 1985	_____
80	Annual Report 1984/85	April 1985	Not applicable.
81	Performance Under Protest	May 1985	_____
82	Minor Report on the Domicile of a Minor [Printed as an Appendix to LRC 86]	Sept. 1985	_____
83	Defamation*	Sept. 1985	_____
84	Personal Liability Under a Mortgage or Agreement for Sale	Sept. 1985	_____
85	Mortgages of Land: The Priority of Further Advances	Jan. 1986	_____
86	Annual Report 1985/86	April 1986	Not applicable.
87	Spousal Agreements	Aug. 1986	_____
88	Shared Liability	Aug. 1986	_____
89	Action *Per Quod Servitium Amisit*	Nov. 1986	_____
90	The *Court Order Interest Act*	Jan. 1987	_____
91	Obsolete Remedies Against Estate Property: *Estate Administration Act*, Part 9	March 1987	_____
92	Annual Report 1986/87	April 1987	Not applicable.

* Report is out of print.

Appendix B

MATTERS UNDER CONSIDERATION BY LAW REFORM COMMISSION OF BRITISH COLUMBIA

1. Debtor-Creditor Relationship Topics
   (a) Execution Against Shares
   (b) Fraudulent Conveyances and Preferences
   (c) Set-Off
   (d) The Buyer's Lien: A New Consumer Remedy
   (e) Enforcement of Foreign Judgments
2. Trusts and Estates Topics
   (a) The Effect of Testamentary Instruments
   (b) Notice Requirements in Estate Matters
   (c) Trustee Investments
   (d) The Rule in *Howe* v. *Lord Dartmouth*
   (e) *Land (Settled Estate) Act*
3. Contract Law Topics
   (a) Deeds and Seals
   (b) Contractual Mistakes
4. Real Property Law Topics
   (a) Joint Project on Land Title Law
   (b) Specific Land Title Issues
   (c) Floating Charges on Land
   (d) Co-Ownership of Land
   (e) Commercial Tenancies
5. Professional Review and Privilege
6. Vicarious Liability under the *Motor Vehicle Act*

Appendix C

COMMISSION WORK REVIEWED AND CITED

Following is a partial list of reviews, articles, books, and cases in which the Commission's work has recently been referred to or discussed.

(a) *Articles and Reviews*

W.A. Bogart, "Developments in the Canadian Law of Standing," (1984) 3 Civ. J.Q. 339.

W.A. Bogart, "Review - Law Reform Commission of British Columbia, Report on the Crown as Creditor: Priorities and Privileges," (1984) 48 C.B.R. 181.

Bowles and Whalen, "Working Paper on Foreign Money Liabilities," (1982) 60 Can. B. Rev. 805.

Bowles and Whalen, "Compound Interest: Could Multipliers be the Way Forward?" (1986) 136 N.L.J. 876.

Bowles and Whalen, "The Law of Interest: Dawn of a New Era?" (1986) 64 Can. B. Rev. 142.

F.M. Catzman, "Law Reform Commission of British Columbia, Bulk Sales Legislation, Working Paper No. 40," (1983) 8 Can. Bus. L.J. 109.

B. Crawford, "The Legal Aspect of Money, 4th ed., by F.A. Mann," (1982-3) 7 Can. Bus. L.J. 368.

G.H.L. Fridman, "Law Reform Commission of British Columbia, Competing Rights to Mingled Property: Tracing and the Rule in Clayton's Case, Working Paper No. 36," (1982-83) 7 Can. Bus. L.J. 353.

G.H.L. Fridman and J.G. McLeod, *Restitution*, Toronto, The Carswell Company Limited, 1982 at 166 to 172.

F.W. Hansford, Book Review, "Restitution by G.H.L. Fridman and James G. McLeod, . . . Unjust Enrichment by George B. Klippert. . . " (1984) 18 U.B.C.L. Rev. 177.

G.B. Klippert, *Unjust Enrichment*, Toronto, Butterworth's, 1983 at 152 to 156.

H.W.D. Lewis, Note on "Rule in *Bain* v. *Fothergill*," (1985) 135 N.L.J. 479.

J.K. Maxton, "Execution of Wills: The Formalities Considered," [1982] 1 Canterbury L. Rev. 393.

F. Meisel, "British Columbia Law Reform Commission Report on Arbitration," [1983] Civ. J.Q. 197.

F. Meisel, Note on "Settlement Offers," [1986] Civ. J.Q. 99.

M.H. Ogilvie, Review, "Report on Covenants in Restraint of Trade. Law Reform Commission of British Columbia," (1985) 63 Can. B. Rev. 250.

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Appendix D

PAST AND PRESENT MEMBERS OF THE COMMISSION

Hon. E.D. Fulton	Chairman	1970 to 1973
Hon. Mr. Justice F.U. Collier	Commissioner	1970 to 1971
Dr. Richard Gosse	Commissioner	1970 to 1972
Ronald C. Bray	Commissioner	1971 to 1977
	Acting Chairman	1973 to 1974
J. Noel Lyon	Commissioner	1972 to 1973
Allen A. Zysblat	Commissioner	1973 to 1976
Paul D.K. Fraser, Q.C.	Commissioner	1973 to 1979
Peter Fraser, Q.C.	Commissioner	1973 to 1982
	Acting Chairman	1978 to 1979
Leon Getz	Chairman	1974 to 1977
	Commissioner	1974 to 1979
Hon. Mr. Justice J.D. Lambert	Commissioner	1976 to 1978
	Chairman	1978
Kenneth C. Mackenzie	Commissioner	1978 to 1983
Bryan Williams, Q.C.	Commissioner	1979 to 1984
Anthony F. Sheppard	Commissioner	1979 to 1984
Arthur L. Close	Commissioner	1979 to date
	Vice-Chairman	1983 to 1984
	Chairman	1984 to date
Hon. Mr. Justice J.S. Aikins	Chairman	1980 to 1983
Hon. Mr. Justice R.I. Cheffins	Commissioner	1983 to 1985
	Vice-Chairman	1984 to 1985
Mary V. Newbury	Commissioner	1984 to date
Lyman R. Robinson, Q.C.	Commissioner	1985 to date
Peter T. Burns, Q.C.	Commissioner	1986 to date

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